

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,039

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Appeal of)

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INTRODUCTION

The petitioner appeals a decision by the Department of Social Welfare determining that she, her husband and her son are ineligible for Medicaid until they reach certain spend-down amounts.

FINDINGS OF FACT

1. The petitioner and her husband live on combined Social Security disability payments of \$1,241 and earned income of \$275.45 per month.
2. On November 3, 1995, the petitioners were notified that they were ineligible for Medicaid based on excess income. On December 7, 1995, they received a corrected notice still finding them ineligible but informing them that they could become eligible when they incurred \$3,859.32 in medical expenses from the period November 1, 1995 to April 30, 1996. They were also notified that their nineteen year- old son would have to incur \$1,022.88 in expenses for the same period.
3. The petitioner's eligibility was calculated by deducting \$20 from their Social Security income of \$1,241 and adding that to their net earned income of \$105.22 per month, which was achieved by deducting a \$65 disregard and half of the remainder of their \$275.45 monthly earned income from the gross. Their total countable income was found to be \$1,326.22 which was compared to the \$683 protected income level for a family of two and was found to be \$643.22 in excess. That figure was multiplied by six months to obtain a spend down figure of \$3,859.32.
4. The petitioner's son's eligibility was determined by adding both his parents Social Security income to their gross earned income minus a \$180 (\$90 x 2) employment expense disregard, for a total of \$1,336.45. He was attributed with one-third of that income, or \$445.38. That figure was compared with the protected income level of \$275 (1/3 of \$825) and it was determined that he had an excess of \$170.48 per month, resulting in a six month spend down of \$1,022.88.
5. The petitioner does not disagree with the amounts used by the Department in its calculations. She

appeals because she has medical bills which she cannot pay. She presented evidence that she had incurred over \$800 in doctor's bills in 1995 and almost \$10,000 in hospital expenses during that year.

ORDER

The decision of the Department is affirmed.

REASONS

Social Security benefits are a completely countable form of unearned income under the Medicaid regulations. M241.2(3). The only disregard for which the petitioner appears to be eligible is the disabled deduction of \$20. The petitioner's and her husband's earned income is also countable and it appears that they received all the deductions from that income for which they were eligible. M241.2, M243.1.

The petitioner's child's income must be determined by considering some of the income of the parents as available to their child. The parent's employment expenses were considered and discounted and one-third of the remainder was attributed to the son. The calculation in this case appears to be correct also. M243.3.

The protected income level for two person families residing outside of Chittenden County is \$683 per month. P-2420(B)(1). The couple had income above that level and could not be found eligible for Medicaid. The protected income level for a family of three is \$825 per month. One-third of that amount is the protected level for one member of a three person household, or \$275. The income attributed to the son is in excess of that amount so he too is ineligible for Medicaid.

The regulations also allow for eligibility for persons who have excess income in the following circumstances:

A person who passes all eligibility tests, except that his or her Medicaid group's monthly income is more than any of the income tests for which he/she may be eligible (see P-2420 B) may qualify for Medicaid coverage. To do so, he or she must show that his or her Medicaid group has paid or incurred medical expenses (see Medical Expense Deductions in the M430 Section) at least equal to the difference between its countable income and its Protected Income Level. This difference is called the "spend-down" requirement. Note that a person who does not pass any of the other applicable income tests must spend down to the Protected Income level and is not permitted to spend down to any of the higher income tests.

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The petitioner has been advised that she and her husband will be eligible once they spend down \$3,859.32 for the six month eligibility period. That is an amount equal to the difference between her countable income and the Protected Income Level. The petitioner's son has also been advised that he needs to spend down the amount representing the difference between his income and the protected level for a six month period or \$1,022.88. As such, the petitioner has been correctly apprised as to the conditions for regaining eligibility.

The petitioner should present documentation of her considerable medical expenses to her worker at the

Department to determine if she has met the spend down at any given time. Record keeping will be important to her to

regain her Medicaid eligibility.

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